

REMARKS

The undersigned thanks Examiner Rosenbaum for the courtesy of the personal interview in his office on April 25, 2005. The following remarks reflect the substance of the interview.

Upon entry of this Amendment, claims 1-5, 7-11 and 21 will be currently pending in the present application. This Amendment cancels claims 6 and 12-20 and adds new claim 21.

In reviewing the claims as previously presented in the last Amendment and the prior art relied upon by the Examiner, and in discussing this application with the Examiner, it was apparent that the Examiner was relying on Ellis for teaching a detecting device and timer, but that the detecting device and timer in Ellis were used for different purposes than in the shredder described in the present application. However, that difference was not clearly reflected in the claim language. By this Amendment, claim 1 has been amended to more specifically define the operation of the detecting device in the shredder of claim 1 in an effort to distinguish it from the art of record.

In Ellis, the detecting device (see electric eye 55, 57) is used to detect whether material is still being output from the chamber, and shuts the device off if it fails to detect material being output. Thus, "the electric eye 55, 57 can keep the machine running until the outlet orifice 10 in the bottom of the chamber is clear. In this manner, the machine 2 will only run as long as plastic 50 is present within the chamber 40." (column 4, lines 38-42) The timer is only provided to keep the machine from running too long, thus preventing excessive wear and heat.

This is the opposite of the invention of claim 1. In claim 1, the detecting device is used to determine when the shredded material in the receptacle accumulates to a predetermined height. This is done by determining if a beam at that predetermined height "has been interrupted for at least a predetermined period of time." The detecting device is not designed to monitor whether material is being output from the cutting device, as is the case with Ellis. Indeed, to prevent shredded material being output from the cutting device from being falsely detected as an accumulation of shredded material, the detecting device "ignores interruptions of the beam for less than the predetermined period of time and enables operation of the cutting device to continue." Thus, intermittent interruptions of the beam by

falling shredded material will not stop operation of the cutting device, but a prolonged interruption caused by accumulated shredded material will stop operation.

Thus, Ellis has no teachings that suggest the invention of claim 1 as amended. Bleasdale is equally inapplicable because its "detector" at 24 is spaced above the cutting device and the cutting device's output. Claim 1 specifically recites that the "detector" is "below the cutting device." In Bleasdale, there is no concern of falling shredded material intermittently interrupting the beam generated by device 24 because it is above the cutting device. Bleasdale simply actuates a ram upon shredded material accumulating to the level of device 24.

Accordingly, claim 1 is submitted to distinguish from the art of record for at least the reasons advanced above, and the Examiner is respectfully requested to withdraw the outstanding rejection against it. Claims 2-5, 7-11 and 21 all depend from claim 1. These dependent claims are submitted to be patentable for the reasons advanced above with respect to claim 1, as well as for the reason that they define separate patentable inventions.¹

All objections and rejections having been addressed, it is respectfully requested that the present application is in a condition for allowance, and a Notice to that effect is earnestly solicited.

If the Examiner has any questions or suggestions for facilitating the prosecution of this application, he is invited to contact the undersigned.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP LLP



BRYAN P. COLLINS

Reg. No. 43560

Tel. No. 703.905.2038

Fax No. 703.905.2500

¹ For example, new claim 21 recites the feature of the timer that is used by the detecting device in claim 1. The prior does not teach using a timer in this manner, as the timer in Ellis operates independently of its detecting function.

KROGER ET AL. -- 09/940,726
Client/Matter: 082135-0315293

Date: April 25, 2005
P.O. Box 10500
McLean, VA 22102
(703) 905-2000